

# **EDMONDS CITY COUNCIL APPROVED MINUTES**

## **September 1, 2015**

The Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Earling in the Council Chambers, 250 5<sup>th</sup> Avenue North, Edmonds. The meeting was opened with the flag salute.

### **ELECTED OFFICIALS PRESENT**

Dave Earling, Mayor  
Adrienne Fraley-Monillas, Council President  
Diane Buckshnis, Councilmember  
Kristiana Johnson, Councilmember  
Lora Petso, Councilmember  
Joan Bloom, Councilmember  
Thomas Mesaros, Councilmember  
Michael Nelson, Councilmember

### **STAFF PRESENT**

Phil Williams, Public Works Director  
Scott James, Finance Director  
Bertrand Hauss, Transportation Engineer  
Rob English, City Engineer  
Sharon Cates, City Attorney  
Linda Hynd, Deputy City Clerk  
Jerrie Bevington, Camera Operator  
Jeannie Dines, Recorder

### **ALSO PRESENT**

Ari Girouard, Student Representative

Mayor Earling read a statement into the record. "Last week during the City Council meeting, we had an unfortunate incident when some of the audience members interrupted and disrupted the Council meeting with various comments and gestures. Such actions are simply not acceptable. With that in mind I want to quote from RCW 9A.84.030 Disorderly conduct. "A person is guilty of disorderly conduct if a person intentionally disrupts any lawful assembly or meeting of persons without lawful authority." We know that Council meetings are public meetings for the City Council and the public with an agenda which includes various opportunities for public input such as regularly scheduled public comment periods, comment periods in public hearing, and/or scheduled comment periods on specific additional agenda items. The Council values comments from the public; however, we cannot allow a speaker to hijack the proceedings. Public comment is welcomed and encouraged at appropriate times, disruption is not. Beyond the public comment opportunities, the meeting is for the City Council to hear information from staff and consultants as well as discuss issues amongst themselves on the dais including and leading to decisions. Because of unfortunate incident a week ago, I have ordered the police department to be at City Council meetings for the foreseeable future. Disruptions such as last week will not be tolerated. Disruptions similar to last week will lead to a warning followed by ejection from the meeting following that second interruption. Edmonds expects and deserves civil discourse. Yes, we've had some recent difficult issues before the Council with emotional comments from both cities and Council. However, outbursts such as we had last week will not be allowed."

### **1. ROLL CALL**

Deputy City Clerk Linda Hynd called the roll. All elected officials were present.

### **Introduction of New Student Representative**

Council President Fraley-Monillas introduced the new Student Representative Ferrari (Ari) Gerrard, a senior at Edmonds-Woodway High School. Ms. Gerrard described her background and interests which include serving as senior class president and softball.

**2. APPROVAL OF AGENDA**

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.**

**3. APPROVAL OF CONSENT AGENDA ITEMS**

Councilmember Buckshnis requested Item 3A be removed from the agenda.

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:**

- B. APPROVAL OF CLAIM CHECKS #215859 THROUGH #215952 DATED AUGUST 27, 2015 FOR \$1,187,259.57. APPROVAL OF PAYROLL CHECK #61765 FOR \$102.60 FOR THE PAY PERIOD AUGUST 1, 2015 THROUGH AUGUST 15, 2015**

**ITEM A: APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF AUGUST 25, 2015**

Councilmember Buckshnis will abstain from the vote as she was absent from the meeting.

**COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE ITEM A. MOTION CARRIED (5-0-2), COUNCILMEMBERS BUCKSHNIS AND NELSON ABSTAINING.**

**4. AUDIENCE COMMENTS**

**Scott Blomenkamp, Edmonds**, referred to an email he sent the City Council, stating the Council may not have previously been aware that under ECDC 20.07.005 Procedure for Closed Record Decisions, the Council had the ability to address most of the concerns citizens had during the closed record review of the Woodway fields. No testimony or other evidence will be accepted by the City Council except, 1) new information required to rebut the substance of any written or oral ex parte communication provided during an appearance of fairness disclosure; and 2) relevant information that, in the opinion of the city council, was improperly excluded by the hearing body/officer. Next, he apologized for his part in contributing to the discord last Tuesday and offered no excuses. He requested the Council reflect on what would motivate the father of 7 year-old son, a person who is not a political activist, is not comfortable with public speaking and who has many other things to do to come to nearly every City Council, Tree Board, ADB and other local meetings.

**Alicia Crank, Edmonds**, said she watched last Tuesday's City Council meeting from home and abandoned a project she was working on when she saw the breakdown of communication about telephonic ruling and whether a resolution existed. She searched Edmonds' and other cities' online archives to see what their policies were. The resolution couldn't be found by staff and a great deal of discord occurred regarding what should happen. She did not think Councilmembers served to argue and figure out what to do and the right protocol. It was later discovered work had been done with regard to telephonic participation in 2013 but was not pursued to conclusion. Since that work was done, the resolution should have been scheduled on tonight's agenda for a decision. She summarized this was an

easy fix and she implored the Council to ensure the next agenda included that easy fix to avoid future discord or a judgment with regard to a Councilmember's participation.

**Laura Johnson, Edmonds**, referred to the Puget Sound Starts Here bumper stickers on City vehicles throughout Edmonds and a banner proclaiming Nothing But Rain Down Storm Drains. She googled that statement and found it came from the Washington Department of Ecology. The site includes a publication entitled Reducing Toxic Threats which states much of the pollution that enters our environment comes from the small but steady releases of toxic chemicals contained in everyday products. Some toxic chemicals impair development, some affect reproduction, some disrupt our body chemistry, and some cause cancer. Ecology's Reducing Toxic Threats initiative focuses on identifying priority toxic chemicals and developing plans to reduce or eliminate their use, or to mitigate their impacts on people and the environment. It includes developing Chemical Action Plans, supporting a strong toxics policy and protecting Washington's children. Washington's Children's Safe Product Act is one of the most progressive in the county thanks to the efforts of Senator Chase and others. The Act requires manufacturers of children's products sold in Washington to report if their product contains a chemical of high concern to children and limits the amount of lead, cadmium, and phthalates allowed in children's products.

Ms. Johnson continued, the Puget Sound Toxics Assessment lists 17 toxic chemicals and chemical groups and the harmful effects of the toxic chemicals on the environmental health of Puget Sound. The sources of these chemicals, the pathways they travel to reach Puget Sound such as surface water runoff and priorities for actions to reduce and control pollution. She cited ways to reduce toxic threats, avoid using toxic chemicals; prevention is the smartest, cheapest and healthiest approach. Cleanup is the most costly solution but it is necessary where contamination has occurred. One example would be the Unocal cleanup site. The best way to reduce toxic threats is to prevent contamination in the first place by limiting the many sources of toxic chemicals. This includes making informed choices about household products, keeping pollutants out of storm drains, actively supporting community organizations that work to clean up water and insisting that elected officials make reducing toxic threats a priority. She questioned whether the unnecessary and avoidable pollutants would be avoided now or cleaned up later. She asked the Council to place a stop work order and review the permits especially those that affect human and environmental health.

**Christi Davis, Brier**, PhD, referred to the results of a testing done on a sample of crumb rubber installed under the plastic grass at the fields at the former Woodway High School. Zinc is present in sample at 20,000 parts per million which is consistent with the levels reported in the other samples of field turf with crumb rubber contained in Gradient's report to Verdant Health Commission earlier this year. She offered to email the Council the report. The high zinc level would not be a problem if the zinc stayed in the crumb rubber but it does not. A well-known study by Connecticut's Department of Environmental Protection collected a total of eight stormwater samples from three different artificial turf fields. In three samples, one from each field, there were zinc levels high enough to be toxic to aquatic life. Fish were placed in 2 of the stormwater samples for 96 hours and over half died. The crumb rubber also contains numerous other petrochemicals because crumb rubber is made from petroleum. The turf itself contains phthalates which makes the plastic grass less abrasive; phthalates fall under the Children's Safe Product Act. These chemicals will end up in the waterways, fish people eat and the sea life people consider part of the natural environment and an essential part of the Pacific Northwest. She found it inexplicable that while the City boasts of its participation in a program to clean up the Unocal site and is spending thousands of federal dollars to do it, at the same time is dumping the exact same chemicals on the old Woodway fields and not even requiring Edmonds School District (ESD) to conform to the 2014 sewer and stormwater regulations. She questioned whether the entities involved just pretend to care about children and Puget Sound and why they were polluting the fields and giving them to children to play on.

**Kortney Hamilton, Edmonds**, read an expert from an online permit site, Section 4, page 6, minimum requirement #8, The City acknowledges that under the 2005 Ecology Stormwater Management Manual for Western Washington, turf fields such as the ones proposed for this project are not called out as pollution generating impervious substance (PGIS). The 2012 version does clarify that synthetic turf is a PGIS. The City has potential liability from zinc containing runoff entering its stormwater system especially in this particular situation where the discharge from the City's stormwater system will go directly into Deer Creek, a drinking water source for Olympic View Water and Sewer District. Under the circumstances, the City will require treatment of the discharge from the proposed field prior to discharging to the City's stormwater system. The City would approve a system that just has the sand filter vault without the media filter. She found it tragic that the City would approve the bare minimum that mitigated its liability. She called for a stop work order and review of the permits.

**Isaac Carrigan, Edmonds**, said please don't put this field in. He loves Puget Sound, marine life, eagles, the fish, the oysters, the crabs and all marine life. He said he was thankful for freedom.

**Jen Carrigan, Edmonds**, commented the Council has heard from citizens week after week about many layers of concern with the project. She asked the Council to place an immediate stop work order while the permits and codes are reviewed and to not sign the Interlocal Agreement (ILA) until the issues of concern are addressed.

**Cassie Goforth, Edmonds**, a mother, trained as a social worker and former teacher, expressed concern about the decision to put carcinogenic chemicals into a field where many children play and many of the community's sports teams play as well as the health of the greater environment. She was concerned such a decision may be illegal under the Children's Safe Product Act because artificial turf and crumb rubber contain elements named in the act such as phthalates, benzene and others. She requested the Council place a stop work order while the permits are reviewed and the legality and liability is reviewed and not to sign an ILA until the legality clarified. She believed it would be much cheaper to do that rather than have it declared illegal after installation and then removed. She was also dismayed by the process and found it difficult to understand how the School District made this decision in the first place or how it was approved. She felt there was still time to do the right thing. Many of her neighbors and citizens of Edmonds would be proud to see the right decision made.

**Cliff Sanderlin, Edmonds**, said the City, Edmonds School District and Verdant Health Commission were spending citizens' tax dollars but citizens have had no input on the decision to spend their tax dollars on something they know was wrong. He was not speaking only about the immediate neighbors of the sports fields as concern has been expressed by many, including people at the University of Washington, scientists around the state and most importantly Senator Marilyn Chase. Senator Chase is very well informed about issues affecting children and children's health and has sponsored important legislation. He urged the Council to listen carefully to what she has to say. Next, if a group of people have a concern and the Council agrees, he asked how that was enacted by the City, whether Council decisions were filtered through the Mayor and then to administrative staff. As a community member speaking about issues in the past that affected his immediate community, he felt his concerns were discounted and the administrative staff felt they were a pain in the neck and if they waited long enough they would burnout and go away. He said he burned out and went away for a long time but now was back.

**Al Rutledge, Edmonds**, said he has not heard whether the agreement between the School District and the City for ballfields has expired. He recalled two weeks ago there were plans to discuss a 60-90 day extension with the School District.

**Senator Marilyn Chase** said she watched last week's Council meeting, and suggested temperatures be lowered and the issue at hand be address. She has been followed this issue carefully and recently found

new information on the internet which she provided to the Council. In May the Chairman of the Consumer Products Safety Commission (CPSC), Elliott Kaye, testified before Congress, saying he was sorry that in 2009 the Commission said these fields were safe to play on. He said it was a political decision, the science was not there and the staff at the time did not even follow and agree with that. When the Commission said safe to play on, that meant something to parents they did not intend to convey or should have conveyed. Congress directed CPSC to establish a Chronic Hazard Advisory Panel to make recommendations to the Commission about products and chemicals. They issued a ruling in December and once adopted will take effect 180 days after, banning some phthalates because they are endocrine disruptors which can cause reproductive problems in children. The American Chemistry Council did not argue against the findings but the process. She assured it will move forward and every manufacturer of children's products will be required to submit to strict testing to determine what chemicals are in their products. Exxon Mobile who is behind the synthetic turf is one of their chief critics. She summarized the science is in, the question has been answered. She provided copies for Council and offered to discuss it further.

**David Anderson**, PhD in Toxicology from the University of Washington, said he made a presentation to the Council on July 21, 2015 regarding information not in the materials provided to the Council about crumb rubber or other alternatives. He referred to documentation he has since located on the internet regarding alternatives such as Geo Turf including a spreadsheet in the preliminary results of a recently published Yale report of what is in crumb rubber and their affects. Their summary found 96 chemicals in crumb rubber and 14 samples analyzed. Of the 96 chemicals 47% have no toxicity assessments; 51% had some toxicity but of the 49, 10% are probably carcinogens and the others are irritants. He provided a supplement to a scientific medical publication, Carcinogenesis, whose concern is the potential for chemical mixtures from the environment to enable the cancer hallmark of sustained proliferative signaling. He summarized this is an international issues; 24 authors from many nations are discussing this issue.

**Maggie Pinson, Edmonds**, commented the Council has heard from impassioned citizens about protecting children, that children should not be exposed to carcinogens, toxic heavy metals or other toxins, particularly when there are choices. The Council has heard citizens describe their love of Edmonds and their impassioned desire to keep Edmonds clean, healthy and safe. Senator Chase has spoken about phthalates present in crumb rubber and the plastic blades of synthetic turf grass. The Children's Safe Product Act lists specific phthalates that children need to be protected from; phthalates are often endocrine disrupting chemicals. Endocrine disruptors are thought to be blamed for the worldwide epidemic of Type II diabetes, obesity, reproductive, neurological and many other problems. Only the Council is in position to make a difference tonight. Only the Council can take the next, necessary and right step. She requested the Council do the right thing, place an immediate stop work order on the installation of the synthetic crumb rubber on the Woodway fields as review of the permits, legal issues and health issues must be undertaken. She also requested the Council not sign the ILA.

**Trudy Biolick, Edmonds**, a resident within 300 feet of fields, said she signed a letter that has been provided to the City Council. She was disappointed to learn that installation of lights has occurred after they were told they would not be. She did not understand how that process was diverted, assuming it was not meant to be caught. She did not understand the motivation for continuing with crumb rubber. She described her previous experience with an industrial hygienist in the ESD in the late '90s when she proposed eliminating the use of high hazard pesticides on school building when children were present and the industrial hygienist said it was effectively okay. The pesticides had already been banned for home use but could be used for agriculture and in some commercial locations. That experience caused her to wonder how much of a corporate apologist was involved versus the facts. She had not followed the money but wondered where the money was that cause people to adhere to this position. As a skeptic and a resident, she did not understanding adhering to this position. She urged the Council to place a stop work

order, noting work has already occurred that should not have occurred. She did not understand what would prevent the Council from unanimously supporting a stop work order and the use of a more appropriate infill material.

**Deb Harrett** expressed support for the Council considering a stop work order on the fields. She loves Edmonds, the world, and children and wants everyone to be safe and healthy. She urged the Council to do something about this and make a difference for Edmonds and the world.

**Roger Hertrich, Edmonds**, referred to Councilmember Mesaros being cut off last week when Mayor Earling illegally closed the meeting and suggested Council President Fraley-Monillas should have taken over the meeting so that Councilmember Mesaros could finish his statement and Councilmember Johnson could also speak. Next, he said if the Council did not sign the ILA, the City would not have to schedule play on the toxic field. Although that would impact sports teams, it may save a few lives. The Mayor can instruct staff not to schedule play on the fields; the best way would be for the Council not to sign the ILA. He relayed the public is losing faith in national as well as local government. With regard to the comment, follow the law, he said it relates not only to crumb rubber but other issues. He suggested the Council take a stand and not sign the ILA since they are all against crumb rubber. The Council should also consider changing the building code to not allow crumb rubber on any fields in Edmonds. The result would be two non-conforming fields and any new fields would not be crumb rubber. He disagreed the Council did not have the ability to take action.

**Rebecca Wolfe, Edmonds**, PhD, said she is involved in an environmental law and policy program and today started a new course regarding science in environmental law and policy, noting this may be a good project for the course to study. She expressed support for stopping work while further research is done. The emphasis should not be the ESD or City saving face but doing the right thing. Edmonds is so wonderful and she is proud to say she is from Edmonds, is proud of the plastic bag ban. A recent newspaper article in the Beacon said the parents and community who oppose crumb rubber are on a tirade. She relayed the meaning of tirade, a declamatory strain or flight of censor or abuse, a rambling invective, an oration or harangue abounding in censorious and bitter language. She said the citizens who care about the community and their children should not be looked down upon; they should be given respect while they are learning. Everyone is learning about the science and there should be time given to learn about what is being done and to be sure about what is being done. She supported a stop work order, considering how much money has been spent and will be spent for possibly a very bad cause.

**Andy Perry, Edmonds**, a doctor at Community Health Center of Snohomish County in Edmonds, referred to the Children's Safe Product Act, pointing out the chemicals in crumb rubber and grass of artificial turf are known to be toxic, particularly phthalates in the turf which can be an endocrine disruptor. He urged the Council to look into a stop work order to determine if the installation of the fields is a violation of the Act. He also urged the Council not to sign the ILA.

**Colin Southcote-Want, Edmonds**, referred to the Children's Safe Product Act, RCW 70.240, which states products that fall under the Act are designed or intended by the manufacturer to be used by a child at play. Clearly the fields fall under that Act. He referred to WAC 173-334 who provides details regarding how the people who put down these fields need to report on their products. The introduction states under the Children's Safe Product Act, manufacturers of children's products are required to notify the Department of Ecology when a chemical of high concern to children is present in their product and describes how that is done. A list of chemicals of high interest is contained in section 173-334-130, a minimum of 8 of the chemicals are known to be in crumb rubber so the field definitely falls under the Children's Safe Product Act. He described what a manufacturer must do: give notice to the Department of Ecology and give details of the chemicals such as how much is in the product, why they are in the product and other information. Under the WAC, the field is a tier 3 product; assuming this is a medium size

developer of fields, they need to have reported the chemical composition by August of this year. He asked whether that had been done. If the City did not know whether they had reported the chemical composition, the City has not done its due diligence. He requested a stop work order be issued and that the Council not provide any funds for the fields until the due diligence is completed.

## **5. UNFINISHED BUSINESS**

### **A. RESOLUTION ADOPTING THE 2016-2021 SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM**

Transportation Engineer Bertrand Hauss recalled staff presented the TIP to the Council on June 6, 2015. Several changes were made to the document and a public hearing was held on July 7, 2015. The intent of tonight's agenda item is for the Council to adopt the TIP. He reviewed revisions to the TIP since the July 7 public hearing (highlighted in orange in the TIP document attached to the packet):

- Five Corners Roundabout: project was added since work will take place in 2016 to complete the project
- Sunset Ave Walkway from Bell St. to Caspers: expenditures for 2016 and 2017 have been modified, in order to be consistent with up-coming Budget documents
- 238th St SW Walkway project from SR-104 to Hwy 99: project was added to the TIP so TIB grant application can be submitted in August 2015 (requirement in order to be eligible for grant funding)
- Minor Sidewalk Program: project was added since Decision Package submitted for the addition of this project in the 2016 Budget (through General Fund transfer)
- Bike Link Project: expenditures for 2016 and 2017 have been modified to be consistent with up-coming Budget documents
- Edmonds Waterfront Analysis: project description revised to match City Council recommendation from July 28, 2015 City Council meeting

In response to a Council question submitted prior to the meeting regarding page 2, he said that information is related to the Hwy 99 & 220<sup>th</sup> project. In response to another Council question regarding ellipsis in the description of the Bike Link project and the ferry storage improvement project, he explained the ellipsis were used for the Bike Link project in lieu of listing all the improvements in the project. The ellipses were used for the ferry storage project because it is a preliminary project and there are potentially other solutions in addition to striping and C-curb.

Councilmember Petso referred to her question regarding project descriptions that contain ellipsis such as bike improvements 212<sup>th</sup>, 76<sup>th</sup> ... She questioned why she would approve the project when she did not know what the project actually is and asked when will she learn what the project really is. Mr. Hauss answered that project is in 30% design; all the stretches are pretty much finalized. The intent was to make the description as short as possible; the main elements are on 212<sup>th</sup> and 76<sup>th</sup> and he did not feel it was necessary to add the side streets. Councilmember Petso asked where bike lanes will be located on Main Street. Mr. Hauss advised there likely would be sharrows on Bowdoin. Wayfinding signs will also be added in some locations. If all the wayfinding signs were listed, the description would be very lengthy.

Councilmember Petso asked when Council would be informed what the whole project is and will there be an opportunity to vote on the project. Public Works Director Phil Williams said that opportunity will be created. There are a lot of lane miles and lineal footage that will be improved as part of the Bike Link project in cooperation with other cities. It will include sharrows in some locations and dedicated bike lanes in some locations. Those details are not yet resolved because the project is in early in design. As the design phase moves forward, more will be learned and staff will keep the City Council updated. Councilmember Petso sought a promise that Council and the public will be given an opportunity to

provide input on the final project before it is too late. Mr. Williams reiterated that opportunity can be created when more is known.

Councilmember Petso noted the ferry storage improvement project also contains ellipsis rather than a description of the project. She said people will not want ferry storage improvements to take away part of City Park, the treatment plant or the marsh or to include construction of an 8-story parking garage. If the project is approved in the TIP, she asked when the Council and the public will learn details of the project. Mr. Williams assured staff would not pursue any of the things Councilmember Petso mentioned. Including it in the TIP is authorization to research plausible, affordable solutions that do not have secondary impacts which will then be presented to Council. Councilmember Petso asked for assurance that there would be a public hearing and opportunity for Council and public input. Mr. Williams explained a new TIP is adopted every year following a public hearing and Council review. He assured there would be several opportunities for the council to provide input on TIP projects.

Councilmember Buckshnis commented there was no funding for the ferry storage improvements until 2019 so she was not concerned. With regard to Bike Link project, she recalled the Council previously reviewed that and this is just the funding for it. Mr. Hauss agreed, advising all the stretches were identified in the Transportation Plan. There will be a couple open houses for the Bike Link project in the new few months. Mr. Williams recalled the Council approved an ILA with Lynnwood for the Bike Link project.

Councilmember Buckshnis observed the projects highlighted in blue are new and were described in the narrative. The projects highlighted in orange were added/revised since the July 7 public hearing; for example, \$10,000 for the Five Corners Roundabout to pay the contractor. She recalled the Council also reviewed the minor sidewalk projects. Mr. Hauss agreed they were reviewed as part of the Comprehensive Plan.

With regard to the Sunset Avenue Walkway, Councilmember Bloom said the Council has not made a decision about what will be done, there have been concerns expressed about multi-use on the west side such as whether pedestrians can safely negotiate with bicycles, skateboards and segways. She asked whether “multi-use” could be removed from the description and added back if a decision was made to have it be a multi-use pathway. Mr. Williams answered it has been part of the project description all along. The efficacy is still being evaluated and at some point a decision will need to be made whether it continues to be a multi-use pathway. If a decision is made not to have a multi-use pathway, multi-use could be removed from the project description. He felt it odd to do it the other way around although it could be done. The Council could take a vote to call the Sunset Walkway something else, indicating bicycles would not be allowed and then add multi-use in the future. He was uncertain there was any functional difference with leaving the description as multi-use path until a decision is made.

Councilmember Bloom referred to “various utility upgrades” in the description and asked whether those depend on whether a multi-use path is constructed on the west side. For example, would various utility upgrades be done if the survey results indicate the public prefers a modified smaller sidewalk on the west side. Mr. Williams answered utility work is needed on Sunset whether or not a pathway is constructed. The timing could vary as it would be desirable to coordinate it with other work on the street like a pathway or street resurfacing. The replacement of the old water line, upgrading the stormwater system and potentially some sewer projects are all independent of a walkway project. Staff would coordinate that utility work with a walkway project.

Councilmember Petso observed a large number of items have been changed since the public hearing including a couple changes since the Council last reviewed the TIP. She asked whether the changes were

significant enough to trigger another public hearing. Sharon Cates, City Attorney's Office, said she had not seen the changes but did not believe they would necessitate another public hearing.

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE THE 2016-2021 SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM.**

**COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND THE MOTION TO CHANGE THE SUNSET WALKWAY BACK TO A WALKWAY PROJECT FROM A MULTI-USE PATH.**

Councilmember Petso said there has been significant public concern with bicycles on the path on the west side. This proposed change would also be consistent with policies adopted in Comprehensive Transportation Plan. Further, it was also her understanding the walkway area does not meet the standards for the recommend width of a multi-use pathway.

Councilmember Bloom expressed support for the amendment for the reasons Councilmember Petso stated. The Council has heard enough from the public that a multi-use path could potentially be unsafe. The fact that it does not meet the standard for a multi-use pathway is enough in itself to remove it from the TIP.

Councilmember Mesaros inquired about the standards referred to by Councilmembers Petso and Bloom. Mr. Williams answered he was not sure they would necessarily be called standards, they are more design guidelines. It is true in most instances a 10-foot width would be preferable if there was enough space but there were opportunities to reduce it to 8 feet if there was not enough space and other conditions exist. There is not enough space for a 10-foot pathway and 2-foot clear distance from parking and still have sufficient width in the narrowest part of the street. Councilmember Mesaros asked whether the City Council will have an opportunity to review the design. Mr. Williams answered yes. He referred to the update provided to the Council last week regarding Sunset Avenue; the survey questions also addressed the multi-use-nature of the proposed pathway.

Council President Fraley-Monillas asked if multi-use could be removed if a decision was made not to make it multi-use. Mr. Williams answered certainly. Council President Fraley-Monillas asked whether it would be difficult to get funding for a multi-use pathway if it was not in the TIP. Mr. Williams said the project needs to be in TIP to be successful in identifying funding in future; that is true of every project. Council President Fraley-Monillas observed the wording could be changed in the future if a decision is made not to have it be multi-use. Mr. Williams answered that has been discussed a number of times in the past; he has recommended leaving it as a multi-use path until the evaluation has been concluded and determine how people feel about it and a decision made whether to continue as a multi-use pathway. With that information, staff could go back to the funding agencies and explain why the project began as a multi-use pathway and a decision made not to have it be multi-use. That would be a much better conversation to have when funds have been spent in the design phase on a project described one way and then changing it. A year's experience, comments from citizens via the survey and Council comments will facilitate that conversation.

**UPON ROLL CALL, AMENDMENT FAILED (3-4), COUNCILMEMBERS BLOOM, BUCKSHNIS AND PETSO VOTING YES; AND COUNCIL PRESIDENT FRALEY-MONILLAS AND COUNCILMEMBERS JOHNSON, MESAROS AND NELSON VOTING NO.**

Councilmember Johnson referred to the Trackside Warning System at Dayton Street and Main Street Railroad Crossings, advising \$300,000 is proposed to be spent from local and General Fund in 2016.

**COUNCILMEMBER JOHNSON MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND THE MOTION TO SHIFT \$300,000 FOR THE TRACKSIDE WARNING SYSTEM AT DAYTON STREET AND MAIN STREET RAILROAD CROSSINGS FROM 2016 TO 2017.**

Councilmember Johnson recognized this is an important project particularly for those impacted by the noise from the trains. She supported the amendment for the following reasons:

1. Last year a citizen group proposed a quiet zone or trackside warning system to reduce train noise. At that time a Local Improvement District (LID) was proposed to pay for the improvements. Waiting a year would allow the City to pursue that funding options.
2. This project can be coordinated with the study being commenced for the Main and Dayton Street conflicts with the railroad crossing. Waiting one year will ensure this project does not precede that study.
3. If the City wants to spend \$300,000 there are plenty of non-motorized projects that can be funded in 2016, all identified and prioritized in the Transportation Element of the Comprehensive Plan.
4. She is a strong supporter of transportation projects, and this minor change makes sense.

Councilmember Petso said she will vote against the amendment and leave the Trackside Warning System in the TIP because it is such a big quality of life issue for so many people in the downtown area and will greatly reduce the number of people who are bothered by train noise. She recognized it had a temporary duration; at some point a solution may be identified that does not require train horns to sound through downtown but she was uncertain whether that solution would be realized in 2 years or 20 years. She preferred to fund the project for the benefits that can be realized at this time. Mayor Earling responded a permanent solution was closer to 20 years away.

Council President Fraley-Monillas observed the at-grade crossing issue likely will not resolved for at least 10 years and delaying the project would result in increased costs. She will vote against amendment.

Mayor Earling reported \$50,000 was included in the budget and is being spent on that project this year. There are frequent inquiries to City Hall about the progress of this project. Although it does not have as much notoriety as crumb rubber, a lot of community members are interested in this project moving forward. It is included in the 2016 budget at this point.

Councilmember Bloom appreciated Councilmember Johnson's careful consideration and rationale. She did not support the amendment for the reasons stated and she had no interest in pursuing a LID to fund the Trackside Warning System as it should be funded by the City and not the people who live closest to the train horns. Everyone benefits from less train noise including visitors.

**AMENDMENT FAILED (1-6), COUNCILMEMBER JOHNSON VOTING YES.**

**MAIN MOTION CARRIED UNANIMOUSLY.**

**6. PRESENTATIONS/REPORTS**

**A. JULY 2015 MONTHLY FINANCIAL REPORT**

Finance Director Scott James displayed and reviewed July 2015 Revenue Summary – General Fund Types without bond proceeds. He displayed a comparison of General Fund Revenue Budget to Actual, highlighting taxes:

General Fund Resource Category	YTD Actual		
	7/31/2014	7/31/2015	% Change
<b>Taxes</b>			
Property Taxes	7,364,006	7,671,011	4.2%

Sales Tax	3,276,565	3,704,663	13.1%
Utility Tax	4,062,923	4,003,331	-1.5%
Other Taxes	495,733	518,207	4.5%
Total Taxes	15,199,227	15,897,212	4.6%
<b><u>Licenses &amp; Permits</u></b>			
Business Licenses & Misc Permits	158,224	150,615	-4.8%
Franchise Fees	810,635	815,439	0.6^
Development Related Permits	378,970	426,341	12.5%
Total Licenses & Permits	1,347,829	1,392,395	3.3%

With regard to why utility tax revenues are not higher when the City approved a rate increase, he explained many utilities are weather dependent and the need for electricity and gas decreases in mild weather. He reviewed a pie chart of Sales Tax Analysis by Category July 2015 YTD, pointing out retail automotive is the major source of sales tax revenue followed by contractors. He displayed a bar graph of Change in Sales Tax Revenue July 2015 compared to July, pointing out contractors had the largest gain, \$302,000 over the same period in 2014.

Mr. James reviewed July 2015 Expense Summary – General Funds, noting an increase of 3.1% due to higher payments to Fire District 1. He reviewed a General Fund Department Expense Summary, commenting expenses YTD are 55% of budget; July 31 is 58% through the year.

He reviewed a graph of Real Estate Excise Tax (REET) revenues 2009-2014, advising 2015 REET revenues are 45.9% higher than the same period last year. He reviewed Utility Fund Revenue Comparison, advising of an increase of \$431,000 over 2014, primarily due to increased sales. Utility Fund Expense Comparison shows a small increase of \$474,000.

Councilmember Nelson asked the amount projected for REET revenues. Mr. James advised he did not have that information with him. REET revenues are up 45% compared to 2014.

## **7. MAYOR'S COMMENTS**

Mayor Earling reported he had an opportunity to meet new grandson, Liam Earl Morrison III, last weekend in Arizona and was able to watch the Seahawk game on Saturday night.

Mayor Earling reported good progress is being made on the 2016 budget and the budget will be presented to the Council in early October.

With regard to the windstorm on Saturday, Mayor Earling thanked Public Works and Public Safety staffs for quickly responding to solve problems with downed trees and limbs. In that circumstance, calls are made to staff and many responded.

## **8. COUNCIL COMMENTS**

Student Representative Girouard asked what ferry storage meant whether it was the area where ferry traffic waited. Mayor Earling advised that project is not funded until 2019, ample time to have any questions answered.

In response to Student Representative Girouard's question, Councilmember Johnson said it was part of the SR 104 study; the idea was what could be done with current configuration to add another lane of ferry storage. One option would be to reduce the number of lanes eastbound; further research is needed. She

assured it does not involve 8-story buildings, moving the treatment plant or impacts to City Park or the marsh or any other ideas suggested by Councilmember Petso.

Councilmember Petso found that quite reassuring. She requested the resolution regarding Councilmember participation by speaker phone be added to the agenda of an upcoming work session.

Councilmember Petso observed there were repeated requests tonight during Audience Comments for a stop work order. She asked how that was done and whether it was something the Council could direct or was it something done by administration. Sharon Cates, City Attorney's Office, responded she needed more information about the status of the Interlocal Agreement (ILA). It was her understanding the ILA with the Edmonds School District (ESD) had not yet been adopted. Even if the ILA had been adopted, it was the ESD's property and the City intends to contribute funds toward the field improvements but not be involved in the construction of the improvements. Therefore, it was her understanding there was no stop work order that could come from the City.

Councilmember Petso relayed her understanding of Ms. Cates' explanation that the City did not have jurisdiction to stop work on the project. Ms. Cates said that was her understanding but she could research to ensure she was answering Councilmember Petso's question correctly. Councilmember Petso said she would appreciate knowing whether the City had that power and if so whether it was Council power, administration power and what would trigger the power. For example, she has been told there are potential violations of the Children's Safe Products Act.

Councilmember Petso said she obtained the answer to the following question from City Attorney Jeff Taraday but he suggested she ask it in open session so it was not attorney-client privilege. She asked whether the Council has the authority to ban crumb rubber fields on public property in Edmonds. Ms. Cates said she did not know the answer. Councilmember Petso said if hypothetically the Council could by passing an ordinance, would it need to go through the Planning Board or could it be done by Council. Ms. Cates said she would need to research that.

Councilmember Petso recalled a citizen stated the company doing the field work may be in violation of the disclosure requirements of the Children's Safe Product Acts. She asked whether that was the City's responsibility to determine or was that the Department of Ecology's responsibility. Ms. Cates responded if that was related to the decision to use crumb rubber in the Woodway fields project, her understanding was the City does not have authority over the project construction. The ILA contemplates the contribution of money to the project but not control over the project. It would be the ESD's responsibility to take up that issue.

Councilmember Mesaros referred to Councilmember Petso's question whether the City has the authority to ban crumb rubber on public property, and asked if the City has the authority ban crumb rubber within the City's jurisdiction. Ms. Cates said she would need to research that as well. Councilmember Mesaros pointed out the fields are ESD property, not public property.

Councilmember Bloom asked why the ESD property was considered private property when every taxpaying member of the community pays taxes to the school district and there were public schools located on the property. Ms. Cates answered she was uncertain it was considered private property; it is considered school district property which is handled differently than public property. There are statutes that provide for how school district property can be used and the school district's responsibilities.

Councilmember Bloom commented everyone who owns private property is regulated by City laws. For example, if a person was doing something that was not in accordance with the law and created hazard. The Council and three surrounding citizens have asked for a review of the permits. If that were done for a

private property, she asked who is responsible for stopping work on the project to allow time to address concerns. Ms. Cates asked for clarification, whether Councilmember Bloom was referring to a project on private property. Councilmember Bloom answered yes, three surrounding property owners and the Council asked for a permit review and there were concerns about hazards for example someone dumping toxic waste on their property. Ms. Cates explained a stop work order is issued by the governing authority; if it is on private property, the property owner tells the contractor to stop. She was certain there were procedures for private citizens to question what occurs on private property but she would need to research it. Councilmember Bloom asked whether administration was responsible for enforcement on private property. Ms. Cates said she would need to research the procedures for addressing questionable projects on private property.

Councilmember Nelson echoed Councilmember Petso's request to schedule the resolution supporting Councilmember's participation by phone. He commended the efforts of Public Works, Public Safety and PUD staffs and citizens during the power outage following Saturday's storm.

Councilmember Buckshnis thanked the citizens who contacted her, agreeing it was her right to call in and participate in last week's meeting. She relayed she likely would have voted in favor of reviewing the permits despite the fact that a Councilmember thinks they know how she thinks. She found the disrespect at last week's meeting very unfortunate.

With regard to the stop work order, Council President Fraley-Monillas said the minutes of last week's meeting reflect Mr. Taraday's statement that the Council cannot file a stop work order. She was able to watch the Seahawks game from Whistler Canada. She returned last night and was very appreciative the power was restored before she returned.

With regard to the ability for Councilmembers to call in, Council President Fraley-Monillas agreed it was important to establish whether Councilmembers could call in. She believed last week had nothing to do with the resolution; the City Attorney indicated the Council had the ability to allow Councilmember Buckshnis to call in. Mayor Earling ruled on it, indicating he found it reasonable for Councilmember Buckshnis to call in. His ruling was overturned by Councilmembers Bloom, Petso and Johnson. More than 15 times since she has served on Council, Councilmembers have been allowed to call in without a resolution. She, Councilmember Buckshnis, and almost every Councilmember who served on the Council has been able to call in without a resolution in place. She found that smoke and mirrors from those who want citizens to believe it was strictly related to the resolution.

Council President Fraley-Monillas said Councilmembers have been allowed to call in and participate during the six years she has served on Council. When asked about it, Councilmember Bloom indicated she did not want Councilmember Buckshnis to participate because it would result in a tie vote. This is an insult to democracy as we know it because Councilmembers Bloom, Johnson and Petso voted to not allow Councilmember Buckshnis to participate in a meeting when Councilmembers have always been allowed to voluntarily participate by phone. What occurred last week was related to Councilmembers' views on what was occurring at the Council meeting and not democracy. She summarized it was nothing new for a Councilmember to call in; this had to do with blocking Councilmember Buckshnis' democracy, her rights as a Councilmember. She was happy to schedule the resolution that former Councilmember Peterson and she developed if that helped Councilmembers feel better about what they did but they should be ashamed that what they did hurt the City as a whole.

Councilmember Bloom asked to respond. Mayor Earling agreed as long as it was a brief response. Councilmember Bloom said the Council does not function on precedence, it functions on the law and on established procedures. Council President Fraley-Monillas asked Councilmember Bloom to show her the law. Councilmember Bloom said the law is the Council adopted Robert's Rules which state a

Councilmember cannot participate by phone unless a procedure is established. Council President Fraley-Monillas pointed out the City Attorney said a Councilmember could. Councilmember Bloom reiterated Council should not function on precedent; a resolution was established because there was not workable procedure for calling in. The resolution was drafted but it was never voted on. Council President Fraley-Monillas said it never came before Council. Mayor Earling requested Councilmember Bloom and Council President Fraley-Monillas cease their discussion.

Councilmember Petso said she could not recall a Councilmember calling in after the Council's adoption of Robert's Rules. The City Attorney stated last week that Robert's Rules do not permit a Councilmember to call in unless a process has been established. A Council committee comprised of Council President Fraley-Monillas and former Councilmember Peterson forwarded it to full Council but that was not done by Councilmember Buckshnis who was the Council President at that time. She recommended the Council adopt the resolution and move on.

9. **CONVENE IN EXECUTIVE SESSION REGARDING PENDING OR POTENTIAL LITIGATION  
PER RCW 42.30.110(1)(i)**

This item was not needed.

10. **RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN  
EXECUTIVE SESSION**

This item was not needed.

11. **ADJOURN**

With no further business, the Council meeting was adjourned at 8:45 p.m.